

# FIATA

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Karen V. Gregory  
Secretary  
Federal Maritime Commission  
800 North Capitol Street NW  
Room 1046  
Washington D.C. 20573-0001  
U.S.A.

Glattbrugg / Switzerland, 30 August 2013

Dear Ms Gregory,

***Re. Docket No. 13-05, Amendments to Regulations Governing Ocean Transportation Intermediary Licensing and Financial Responsibility Requirements, and General Duties***

On behalf of the International Federation of Freight Forwarders Associations (FIATA), I am writing to support the comments already provided by our US members TIA and NCBFAA on the Commission's Advance Notice of Proposed Rulemaking (ANPRM) regarding Regulations Governing Ocean Transportation Intermediary Licensing and Financial Responsibility Requirements, and General Duties.

**Identity and Interest of the International Federation of Freight Forwarders Associations (FIATA)**

The International Federation of Freight Forwarders Associations (FIATA) is the largest and leading non-governmental organization in the field of transportation, representing some 40'000 forwarding and logistics companies employing more than 10 million people in 164 countries, which represent the FIATA constituency. FIATA has consultative status with several United Nations bodies and is recognized by many governmental and private sector's organizations worldwide.

The Federation's main objectives are to promote and protect the interests of the freight forwarding industry, to improve the quality of freight forwarding services, to assist with vocational training and to familiarize the business world in particular and the public in general with the wide range of services rendered by the industry. Many of the FIATA member companies are engaged in maritime transportation where they are predominantly acting as NVOCC's. In this regard, recalling the following officially adopted (2004) description of services may be of assistance.

**FIATA's official description of "freight forwarding and logistics services" provided by Transport Intermediaries**

"Freight Forwarding and Logistic Services" means services of any kind relating to the carriage (performed by single mode or multimodal transport means), consolidation, storage, handling, packing or distribution of the Goods as well as ancillary and advisory services in connection therewith, including but not limited to customs and fiscal matters, declaring the

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Goods for official purposes, procuring insurance of the Goods and collecting or procuring payment or documents relating to the Goods. Freight Forwarding Services also include logistical services with modern information and communication technology in connection with the carriage, handling or storage of the Goods, and de facto total supply chain management. These services can be tailored to meet the flexible application of the services provided.

## US Shipping Act of 1984

The Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (OSRA), the statute under which the FMC operates, was the outcome of four years' public debate that centered around, among other things, what the FMC's function should be in a largely deregulated transportation industry. Regrettably, based on the proposal in the ANPRM, it appears the Commission has lost sight of its mandate to promote competition "with a minimum of government intervention and regulatory costs." Concern exists that the Commission be trying to increase regulation of the industry, while simultaneously decreasing private sector's involvement in the rulemaking process.

## Different Modes of Transportation and Multimodality

We understand that the ANPRM was developed over the course of at least two years, and that the Commission staff constructed the proposed changes to longstanding OTI regulations after countless hours of internal deliberations. It seems that the ANPRM have however been unable to capture the fact that 3PLs (freight forwarders) have become de facto one-stop-shops in a global competitive economy. 3PLs will routinely offer door-to-door services, using different modes of transportation with various licenses and permits from several government agencies, where applicable.

## FIATA's concerns

In particular FIATA is concerned about the following specific regulatory changes:

Financial Responsibility: The ANPRM seeks to increase the financial responsibility requirements for OTIs both for licensed and unlicensed NVOCC's and for group financial responsibility. Over the past fourteen years, since OSRA went into effect, the current financial responsibility levels have been adequate, and the regulatory requirements were never actually envisioned to cover 100% of claims.

Registration and Licenses Renewals: FIATA agrees that the FMC should have current and accurate information about licensed companies; existing regulations already require that forwarders and NVOCCs update their information when officers, branch offices or Qualifying Individuals change. And, if the Commission believes that a more formal process is appropriate, simply providing updated information in periodic reports would be sufficient. Requiring actual license renewals instead would be a costly and burdensome process, both for the industry and the administration, and our view is that this is unnecessary.

Changes in OTI Bonds: Although the amount of the increase proposed for both forwarder and NVOCC bonds are not unachievable, FIATA objects to any increase taking place, especially in the uncertain picture of today's international trade, since the FMC provided no clear explanation as to why any increase was necessary, nor was any impact assessment carried out. Accordingly, even these relatively minor increases would have a significant

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effect on smaller companies and potential applicants for licenses, thus creating artificial interference with market forces.

Of much greater concern was the Commission's proposal to introduce a multi-tiered priority system for claims against OTI bonds and to require carriers and bonding companies to report any claims made against forwarders and NVOCCs. That information would then be published on the Commission's website. FIATA questions the propriety of requiring this, as publishing claims – regardless of merit – would likely have adverse consequences on a licensee's business and might intervene long before facts could be firmly ascertained.

In addition, FIATA recommends that the Commission consider easing procedural requirements for Negotiated Rate Agreements (NRAs) and NVOCC Service Arrangements (NSAs), work with the FMCSA to establish a common bond for OTIs and motor carrier property brokers, and require vessel operators to establish and file their contingency plans for dealing with cargo during periods of anticipated severe congestion.

FIATA recommends that the Commission should take a step back and reconsider whether a comprehensive revision to its OTI regulations by eliminating unnecessary requirements and creating the appropriate environment for better business is not an option to be preferred. In this perspective FIATA members will have fewer constraints in their investments and will manage to be more focussed on expanding their business to and from the United States, thus creating badly needed jobs both in the US and abroad.

We remain at your fullest disposal to discuss the above point in greater detail. Please let us how we may constructively assist.

Yours sincerely,

FIATA

Mr Christopher J. Gillespie  
Chairman of the Multimodal Transport Institute



*the global voice of  
freight logistics*